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CITISTAFF SOLUTIONS, INC.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

DEMETRIC DI-AZ, OWEN DIAZ, and  
LAMAR PATTERSON,

Plaintiff,

vs.

TESLA, INC. dba TESLA MOTORS, INC.;  
CITISTAFF SOLUTIONS, INC.; WEST  
VALLEY STAFFING GROUP;  
CHARTWELL STAFFING SERVICES,  
INC.; and DOES 1-50, inclusive,

Defendants.

Case No. 3:17-cv-06748-WHO

**DECLARATION OF LUDIVINA  
LEDESMA IN SUPPORT OF  
DEFENDANT CITISTAFF SOLUTIONS,  
INC.'S MOTION FOR SUMMARY  
JUDGMENT OR, IN THE  
ALTERNATIVE, MOTION FOR  
SUMMARY ADJUDICATION OF ISSUES**

Date: October 23, 2019  
Time: 2:00 p.m.  
Courtroom: 2, 17<sup>th</sup> Floor  
Judge: Hon. William H. Orrick

Trial Date: March 2, 2020  
Complaint filed: October 16, 2017

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I, LUDIVINA LEDESMA, declare:

1. I am the Human Resources Manager for CitiStaff Solutions, Inc. ("CitiStaff"). I make this declaration of my own personal knowledge. If called as a witness to testify regarding matters stated in this declaration, I could and would competently testify thereto under oath.

2. CitiStaff is a staffing agency that places temporary employees with clients on an as-needed basis. If CitiStaff is unable to provide a temporary employee to a client for an open assignment, it will search and recruit candidates for the position. After recruiting a candidate, he/she attends an on-boarding process and is provided a New Hire Packet which includes an application and copies of CitiStaff's policies and procedures. The application is to be completed and returned to CitiStaff. Candidates also sign and return acknowledgements of receipt of policies, procedures and guidelines indicating they read and understand them. One such policy is CitiStaff's anti-harassment policy. During on-boarding, candidates are also told that if they have any questions, problems or concerns at a work site to which they are assigned, to contact their Staffing Supervisor. CitiStaff pays its temporary employees' wages and provides workers' compensation benefits to them.

3. During the 2015-2016 time period, Monica DeLeon was the Staffing Supervisor in the Newark office and conducted the on-boarding process for new hires. Among other things, Ms. DeLeon explained and distributed personnel documents including the Employee Handbook to new hires. Attached hereto as **Exhibit "A"** is a true and correct copy of pertinent pages of the Employee Handbook in effect during the 2015-2016 time period. Included in the Handbook is CitiStaff's anti-harassment policy and Standards of Conduct. The anti-harassment policy sets forth examples of prohibited conduct including, but not limited to, the use of derogatory comments, statements, or innuendo in the workplace and requires employees to report conduct believed to violate this policy.

4. Upon receipt of a complaint of harassment, CitiStaff will conduct a thorough and objective investigation. If a violation of the anti-harassment policy is found, CitiStaff will take immediate corrective action. If a contractor lodges a complaint of harassment against a client's employee, the local Staffing Supervisor will contact me and I will commence an immediate

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1 investigation. My investigation process starts with an in-person interview of the complainant. I  
2 will then interview witnesses identified who are CitiStaff contractors, if any. After gathering  
3 information, I will contact and advise the client of the complaint against one of its employees and  
4 ask the client to conduct an investigation and report any findings to me. I will then add the  
5 client's findings, and any other pertinent information, to my report of the incident.

6 5. On or about January 25, 2016, a CitiStaff temporary employee, Owen Diaz,  
7 forwarded an email to report that he discovered a racist cartoon at the Tesla site in Fremont,  
8 California. On January 26, 2016, I informed Staff Supervisor Monica DeLeon that I would  
9 handle the investigation of Mr. Diaz's complaint. Ms. DeLeon advised me that she spoke with  
10 Mr. Diaz and that Chartwell, the alleged harasser's employer, had already completed an  
11 investigation and imposed discipline on the alleged harasser. Based on this information, I  
12 concluded I did not need to further investigate this complaint against a non-CitiStaff employee.

13 6. Prior to January 22, 2016, CitiStaff was not aware of any complaint of race  
14 discrimination and/or harassment at the Tesla facility. Prior to January 22, 2016, CitiStaff was  
15 unaware of any problems Mr. Diaz had with Ramon Martinez. In addition, CitiStaff is not aware  
16 of any complaint against Rothaj Foster, except one relating to a verbal altercation between Mr.  
17 Diaz and Mr. Foster in November 2015 and about which complaint CitiStaff was notified by  
18 nextSource.

19 7. Owen Diaz was not terminated from CitiStaff. Personnel records show that Diaz  
20 remains a registered temporary employee with CitiStaff.

21 I declare under penalty of perjury under the laws of the State of California that the  
22 foregoing is true and correct. Executed this 17th day of September 2019, in Orange, California.

23   
24 LUDIVINA LEDESMA

# **EXHIBIT "A"**



# EMPLOYEE POLICY HANDBOOK



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Orange CA 92868  
714.474.2380  
Fax 714.474.2387

**WELCOME TO CITISTAFF SOLUTIONS, INC.**

We are pleased to have you as a part of our team at CitiStaff Solutions, Inc. (referred to in this document as “CitiStaff” and “Company”). CitiStaff is a temporary staffing company providing the highest quality of temporary employee services to its clients.

CitiStaff Solutions, Inc. believes in strengthening relationships with its employees, valued customers, and the community. As you begin, what I hope to be a fulfilling employment experience with CitiStaff, I would like you to take a few moments to become familiar with our goals and policies. This Employee Policy Handbook will serve as a guide of our policies/procedures, how to make your work more efficient, as well as give you an insight into what is expected of you, and what you can expect from your employment with CitiStaff.

Please take time to carefully review our Employee Policy Handbook and do not hesitate to direct any questions you may have to me and/or our Human Resources Dept. I will be happy to assist you in any way I can. Also, the phone number for CitiStaff’s management personnel are listed below. Again, welcome to CitiStaff.

*Erika Garcia*  
*President*

*Corporate Office: 1111 W. Town & Country Rd., Suite 27, Orange, CA 92868; p: 714-474-2380; fax 714-474-2387*

CitiStaff’s President, Vice President, Operations Manager, and Human Resources Manager all can be contacted at the corporate office at (714) 474-2380.

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## **INTRODUCTION TO HANDBOOK**

CitiStaff Solutions, Inc. ("CitiStaff" and "Company") has prepared this handbook to provide all employees an explanation of its policies, benefits and rules. It is intended to familiarize all employees with important information about our company, as well as information regarding their own privileges and responsibilities. It is important that all employees read, understand, and follow the provisions of the handbook as it may be amended from time to time by CitiStaff. Employees will find it to their advantage to read the entire handbook promptly so that they will have a complete understanding of the material covered. As revisions are made, updated information will be distributed to all employees promptly, with updated material inserted promptly in all handbooks available for employee reference.

It is obviously not possible to anticipate every situation that may arise in the work place or to provide information that answers every possible question. In addition, circumstances will undoubtedly require that policies, practices, and benefits described in this handbook change from time to time. Accordingly, CitiStaff reserves the right to modify, supplement, rescind or revise any provision of this handbook from time to time as it deems necessary or appropriate in its discretion. Employees will, of course, be advised of changes when they occur. Employees shall note, however, that only the President has the right to revise any provision or policy in this handbook, with such revisions made in writing only and signed by the President, the Vice President, Operations, or General Counsel, of CitiStaff. Any written changes to this handbook will be distributed to all employees. No oral statements can in any way change or alter the provisions of the handbook.

If an employee has any difficulty reading or understanding any of the provisions of this handbook, they should contact their branch manager. They will gladly make assistance available to any employee who is unable to understand CitiStaff's policies.

CitiStaff strives to improve its operations, the services that it provides its customers, and positive relations with its employees. All employees are encouraged to bring suggestions for improvements to the attention of their supervisor, manager, Human Resources, the Vice President, Operations, or the President. By working together, CitiStaff hopes that it will share with its employees a sincere pride in the work place and the services that we are all here to provide.

## **OPEN DOOR POLICY**

The Open Door Policy is to encourage response from employees and assist in alleviating misunderstandings or uncomfortable situations in the work environment, including, but not limited to, harassment and discrimination.

This policy allows for any employee to speak to a management team member in addition to their immediate supervisor (e.g., the branch manager, Human Resources, the Vice President, Operations, or the President), as needed.

These individuals will treat discussions as confidentially as appropriate to address the issue, and those involved will attempt to help the employee seek a solution.

## **STATEMENT OF EMPLOYMENT**

### **Equal Employment Opportunity Commitment**

CitiStaff believes that equal opportunity is a fundamental principle in conducting business, and has promoted this principle as a basic policy in the governing of CitiStaff. CitiStaff believes that all persons are entitled to equal employment opportunity and does not discriminate against its employees or applicants based on any protected category as defined by law, including, but not limited to: race, color, religion, sex, pregnancy, national origin, ancestry, sexual orientation, age, marital status, gender identity, physical or mental disability, medical condition, genetic information, gender expression, military status, or any other grounds prohibited by state or federal law. Equal employment opportunity will be extended to all persons in all aspects of the employer-employee relationship, including recruitment, hiring, upgrading, training, promotion, transfer, discipline, layoff, recall and termination.

The policy to not discriminate in employment also includes, but is not limited to, the following:

1. CitiStaff will employ those applicants who possess the necessary skills, education, and experience for the position, without regard to race, color, religion, sex, pregnancy, national origin, ancestry, sexual orientation, age, marital status, gender identity, physical or mental disability, medical condition, genetic information, gender expression, or military status.



2. No employee will aid, abet, compel, coerce, or conspire to discharge or cause another employee to resign because of race, color, religion, sex, pregnancy, national origin, ancestry, sexual orientation, age, marital status, gender identity, physical or mental disability, medical condition, genetic information, gender expression, or military status.
3. CitiStaff will establish rates of pay and terms, conditions, or privileges of employment without regard to race, color, religion, sex, pregnancy, national origin, ancestry, sexual orientation, age, marital status, gender identity, physical or mental disability, medical condition, genetic information, gender expression, or military status.

CitiStaff seeks to comply with legal requirements to ensure equal employment opportunities for persons who are qualified individuals with a disability. In order to make known to CitiStaff the person's disability, any applicant or employee who requires accommodation in order to perform the essential functions of the job should contact the Human Resources Manager and request such an accommodation. The individual with the disability should specify what accommodation he or she needs to perform the job. CitiStaff will then engage in a good faith interactive process with the employee or applicant to determine what, if any, effective accommodations can be made for the employee or applicant.

CitiStaff will conduct an investigation to identify the barriers that make it difficult for the applicant or employee to have an equal opportunity to perform his or her job. CitiStaff will identify possible accommodations, if any, that will help eliminate the limitation. If the accommodation is reasonable and will not impose an undue hardship, CitiStaff will make the accommodation.

If an employee believes they have been subjected to any form of unlawful discrimination, they are to provide a written complaint to the Human Resources Manager as soon as possible. If the complaint relates to the Human Resources Manager or the employee is uncomfortable speaking to the Human Resources Manager, they shall provide the complaint to the President or the Vice President, or Claims Manager by calling (714) 474-2380.. An employee's complaint should be specific and should include the names of the individuals involved and the names of any witnesses. CitiStaff will immediately undertake an effective, thorough and objective investigation and attempt to resolve the situation.

If CitiStaff determines that unlawful discrimination has occurred, effective remedial action will be taken, commensurate with the severity of the offense. Appropriate action will also be taken to deter any future discrimination. CitiStaff will not retaliate against an applicant or employee for filing a complaint and will not willingly permit retaliation by management employees or co-workers. Executives, managers, supervisors, and employees who observe a violation of this policy or who receive a request for an accommodation should inform the Human Resources Manager immediately.

Employment decisions shall, therefore, comply with all applicable State and Federal laws prohibiting discrimination in employment.

#### **Statement of At-Will Employment Status**

CitiStaff is a temporary staffing agency and thus does not promise nor guarantee a minimum length of employment, and employment at CitiStaff is employment at-will. Employee's at-will employment may be terminated with or without cause, with or without notice, at any time, by either CitiStaff or the employee. CitiStaff retains the right to demote, transfer, and change an employee's job duties, and compensation at any time, with or without notice, and with or without cause, in its sole discretion. Moreover, temporary employees (those who provide temporary work for CitiStaff's customers) are not guaranteed the location of their employment and there are no guarantees of overtime hours at any given facility. Temporary employees may be given reassignments to other facilities at any time. Of course, temporary employees may decline a new assignment and wait for another assignment to be offered.

The at-will employment status of any employee may be modified or amended only by an express written agreement signed by the employee and the President, and such written agreement.

No employee, officer, or representative of CitiStaff other than the President is authorized to modify or amend the at-will nature of the employment relationship of any employee. The President is authorized to modify or amend the at-will employment status of any employee only in accordance with the terms of this section entitled "Statement of At-Will Employment Status". Nothing in this handbook or any other document or statement, whether written or oral, shall limit the right of the employee or CitiStaff to terminate the employment relationship for any reason, with or without notice.

## **EMPLOYEE STATUS**

### **Introductory Employees**

Employees who are in the Introductory Period are called “Introductory” employees.

### **Temporary Employees**

Temporary employees are those employees who are hired to provide temporary services to the Company’s clients on a as-needed and temporary basis. An employee will not change from temporary status to another status unless specifically informed of such a change, in writing, by the Human Resources Manager. Temporary employees are not eligible for any benefits provided to administrative employees such as vacation pay or other employer-sponsored benefits. However, temporary, full-time employees may be eligible for employer sponsored health care under the Affordable Care Act as explained below.

### **Administrative or Regular Employees**

Administrative or Regular employees are those employees who work on a regular basis at the Company’s corporate, branch or onsite offices and assist in the administration of the Company. These employees may be eligible for employer-sponsored benefits.

## **ATTENDANCE POLICY**

Attendance and punctuality are important to the efficient operation of any business. Good attendance and punctuality are essential components of solid employee performance and are measured by objective standards. All employees should be at their work station and ready to work at the start of their shift. Poor attendance and tardiness disrupt productivity and make it difficult to function effectively; therefore, excessive absenteeism and tardiness will not be acceptable employee conduct and may lead to termination.

### **Job Abandonment on Temporary Assignments - No Call No Show**

By accepting a temporary hire assignment, a temporary employee is representing that they are able to complete the work assignment. If for any reason the employee is unable to do so, the employee must notify CitiStaff immediately. If an employee does not call or show up, the employee may face discipline or termination.

### **Absences**

Absence is the failure to report for work and to remain at work as scheduled, including late arrivals of 30 minutes or more and early departures, as well as absence for an entire day. On occasion, employees may have reason to be absent from work. On these occasions, employees are expected to personally contact their immediate supervisor a minimum of two hours prior to the employee's scheduled starting time with an honest reason or explanation regarding the absence. The use of texting and email are not acceptable to communicate an absence. If an employee is unable to reach their supervisor within this time period, the employee shall contact the Human Resources Manager. If an employee becomes sick during the day, their supervisor must be notified before the employee leaves the work site. Failure to follow these procedures will result in treatment of the day as an unexcused absence and can result in disciplinary action, including termination.

Excessive "unexcused" absences will subject an employee to disciplinary action, possibly including termination. An "unexcused" absence is defined as any absence for which advance approval is not requested.

Failure of an employee to notify their immediate supervisor or the Human Resources Manager regarding their absence within 24 hours of their regular starting time will subject an employee to immediate termination.



**Tardies**

Employees are responsible for being present at the correct time each day and ready to work at their assigned time. If employees are unable to report to work at their assigned time, they will be considered tardy. These individuals are to personally report the tardy to their supervisor (or the Human Resources Manager, if unavailable) as far in advance as possible, but in no case later than their scheduled starting time. Failure to make the appropriate notification may result in disciplinary action, up to and including termination.

### STANDARDS OF CONDUCT

CitiStaff expects employees to observe a standard of conduct which will maintain an orderly, positive and productive workplace. Such a standard of conduct will benefit and protect both CitiStaff and the employees. For this reason, it may be helpful to identify some examples of types of conduct that are impermissible and that may lead to disciplinary action, possibly including immediate discharge. Although it is not possible to provide an exhaustive list of all types of impermissible conduct and performance, the following are some examples:

1. Insubordination, including improper conduct toward a supervisor or refusal to perform tasks assigned by a supervisor in the appropriate manner.
2. Disrespectful or discourteous behavior toward a co-worker, supervisor, client, visitor, vendor, or the general public.
3. Possession, distribution, sale, use or being under the influence of alcoholic beverages or illegal drugs while working.
4. Disclosing trade secrets or release of confidential information about CitiStaff or its customers.
5. Theft or unauthorized removal or possession of property.
6. Altering or falsifying any timekeeping records, allowing someone else to enter information on their timecard, removing any timekeeping record from the designated area without proper authorization or destroying such a record.
7. Absence for one workday without notice to CitiStaff, unless a reasonable excuse is offered and accepted by CitiStaff.
8. Falsifying or making a material omission on an employment application or making erroneous entries or material omissions on forms, reports, CitiStaff' records or customer records.
9. Misusing, destroying or damaging property of CitiStaff, a fellow employee, a customer, vendor, visitor or the general public.
10. Actual or threatened physical violence toward another employee, a customer, visitor, vendor or the general public.
11. Bringing on CitiStaff property dangerous or unauthorized materials, such as explosives, firearms or other similar items without the written permission of the President or the Vice President, Operations.
12. Violating safety or health rules or practices or engaging in conduct that creates a safety or health hazard.
13. Sleeping while on duty.

14. Sexual harassment or other unlawful harassment of another employee, a customer, visitor, vendor, or the general public.
15. Unsatisfactory performance.
16. Unprofessional or inappropriate conduct toward another employee, customer, vendor, visitor, or the general public.
17. Failure of an employee who operates a personal or a rental vehicle for CitiStaff business to immediately notify the Human Resources Manager if their driver's license was suspended, revoked or expired, or if they received a driving-under-the-influence (DUI) citation.
18. Failure of an employee operating a personal or a rental vehicle for CitiStaff business to immediately notify the Human Resources Manager that their automobile insurance expired or was canceled.
19. Failure of an employee to abide by the safety rules.
20. Failure of an employee to abide by the work schedules.
21. Failure of an employee to maintain their work area in a sanitary manner, in line with the general practices of good housekeeping.
22. Excessively absent from work and/or tardy to work.
23. It should be remembered that employment is at the mutual consent of the employee and CitiStaff. Accordingly, either the employee or CitiStaff can terminate the employment relationship at will, at any time, with or without cause or advance notice.

#### **POLICY AGAINST HARASSMENT AND DISCRIMINATION**

CitiStaff is committed to providing a work environment that is free of unlawful discrimination. In keeping with this commitment, CitiStaff maintains a strict policy prohibiting unlawful harassment in any form, including verbal, physical, and visual harassment.

To encourage all personnel to cooperate in implementing this policy, the following specific elements of the policy shall be strictly adhered to:

1. All supervisors and employees shall maintain a work environment free of unlawful discrimination and harassment. CitiStaff policy prohibits discrimination and harassment because of sex (which includes sexual harassment, gender harassment, and harassment due to pregnancy, childbirth or related medical conditions), and harassment because of race, religious creed, color, national origin or ancestry, physical or mental disability, medical condition, marital status, age, sexual orientation, transgender status, genetic information, gender expression, military status or any other basis protected by federal, state, or local law, ordinance, or regulation.
2. The use of derogatory comments, statements, or innuendos related to any of the protected categories referenced above is against CitiStaff policy.
3. All employees shall be treated without regard to sex, gender, race, religious creed, color, national origin or ancestry, physical or mental disability, medical condition, marital status, age, sexual orientation, transgender status, genetic information, gender expression, or military status with respect to promotions, transfers, job rotations, training, work assignments, merit increases, overtime, employment tests, and related employment decisions.
4. CitiStaff requires employees who believe this policy is being violated to report any questionable situations directly to the Human Resources Manager. Employees shall note CitiStaff's Open Door Policy, assures CitiStaff encourages responses from its employees and wishes to assist in alleviating misunderstandings or uncomfortable situations in the work environment.
5. CitiStaff will fully and effectively investigate any such report and will take whatever corrective action is deemed necessary, including disciplining or discharging any individual who is believed to have violated this prohibition against harassment. CitiStaff will also take action to protect the complaining employee and to prevent further harassment or retaliation.



CitiStaff clearly does not tolerate harassment on the basis of any of the categories discussed in this policy and will take appropriate disciplinary action whenever such harassment is demonstrated. Any individuals engaging in such conduct contrary to CitiStaff policy may be personally liable in any legal action brought against them. If there are any questions concerning this policy, an employee should contact the Human Resources Manager.

### **VIOLENCE PREVENTION POLICY**

CitiStaff has a zero tolerance for violence. If an employee displays any violence in the workplace or threatens violence in the workplace, the employee is subject to disciplinary action, up to and including immediate termination. Talk of violence or joking about violence will not be tolerated.

"Violence" is defined to include physically harming another, shoving, pushing, harassment, intimidation, coercion, brandishing weapons and threats or talk of violence.

CitiStaff is committed to providing a safe environment for employees, customers, and visitors. In order to provide a safe workplace, we require employees to note the following:

1. CitiStaff fax machines, copiers and mail systems, including e-mail, are for business purposes. Personal business should not be conducted through these business systems. Voicemail messages may be retrieved by CitiStaff and e-mail messages may be reviewed. Statements made while an employee is talking on the telephone may be heard by another person in the same area. Any such voicemail messages, e-mail messages or overheard conversations that reference any violence or threats of violence are subject to this policy.
2. It is everyone's business to prevent violence in the workplace. Everyone can help by reporting what they see or hear in the workplace that could indicate that a co-worker is in trouble. Often, employees are in a better position than management to know what is happening to those with whom they work.
3. Employees are encouraged to report any incident that may involve a violation of our policies that are designed to provide a comfortable and safe workplace environment. Concerns may be presented to Human Resources, a supervisor or higher management. All reports will be investigated.

### **POLICY AGAINST SEXUAL HARASSMENT**

CitiStaff is committed to providing a work environment that is free of sexual harassment. In keeping with this commitment, the company maintains a strict policy prohibiting unlawful sexual harassment in any form. Sexual Harassment is prohibited by CitiStaff, is against the law, and will not be tolerated.

Every employee should be aware of:

- what sexual harassment is
- what steps to take if harassment occurs
- state law prohibiting retaliation for reporting sexual harassment

If an employee has any questions or concerns about this area, they shall contact their supervisor or the Human Resources Manager for further information.

What is Sexual Harassment? Although many people think of sexual harassment as involving a male boss and a female employee, not all sexual harassment is done by males; sexual harassment can also involve a female boss and male employee. Sexual harassment often involves co-workers, other employees of CitiStaff or other persons doing business with or for CitiStaff. It's against the law for females to sexually harass males or other females, and for males to harass other males or females.

#### **Federal Law**

Under federal law, unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;

2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

### State Law

California law defines sexual harassment as:

1. Verbal harassment -- epithets, derogatory comments or slurs.

***Examples:** Name-calling, belittling, sexually explicit or degrading words to describe an individual, sexually explicit jokes, comments about an employee's anatomy and/or dress, sexually oriented noises or remarks, questions about a person's sexual practices, use of patronizing terms or remarks, verbal abuse, graphic verbal commentaries about the body.*

2. Physical harassment -- assault, impeding or blocking movement, or any physical interference with normal work or movement, when directed at an individual.

***Examples:** Touching, pinching, patting, grabbing, brushing against or poking another employee's body, hazing or initiation that involves a sexual component, requiring an employee to wear sexually suggestive clothing.*

3. Visual harassment -- derogatory posters, cartoons, or drawings.

***Examples:** Displaying sexual pictures, writings or objects, obscene letters or invitations, staring at an employee's anatomy, leering, sexually oriented gestures, mooning, unwanted love letters or notes.*

4. Sexual favors -- unwanted sexual advances which condition an employment benefit upon an exchange of sexual favors.

***Examples:** Continued requests for dates, any threat of demotion, termination, etc., if requested sexual favors are not given, making or threatening reprisals after a negative response to sexual advances, propositioning an individual.*

It is impossible to define every action or all words that could be interpreted as sexual harassment. The examples listed above with the state definition of sexual harassment are not meant to be a complete list of objectionable behavior.

### If Sexual Harassment Occurs:

1. If the employee is comfortable and able to do so, they may confront the harasser and request him/her to stop. The harasser may not realize the advances or behaviors are offensive. When it is appropriate and sensible, an employee should tell the harasser the behaviors or advances are unwelcome and must stop. Sometimes a simple confrontation will end the situation. However, if the employee is not comfortable addressing the situation directly with the alleged harasser, or the behavior does not cease immediately, they shall report their concerns and the events to the Human Resources Manager or Branch Manager as soon as possible.
2. If the employee reports the harassment to the Human Resources Manager and is not comfortable with the response, or if the employee is not comfortable with reporting the conduct to the Human Resources Manager, the employee should immediately report it to the President, Vice President, or Operations Manager.
3. Sexual harassment or retaliation should be reported in writing or verbally. An employee may report such activities even though they were not the target of the harassment.
4. An investigation will be conducted and appropriate action taken.
5. CitiStaff will investigate, as confidentially as possible, all reported incidents of sexual harassment and retaliation.



CitiStaff will fully and effectively investigate any such report and will take whatever corrective action is deemed necessary, including disciplining or discharging any individual who is believed to have violated this prohibition against harassment. CitiStaff will also take action to protect the complaining employee and to prevent further harassment or retaliation.

### **Sexual Harassment Can Be Costly**

If an employee is found to have engaged in sexual harassment, they may be personally liable for monetary damages. CitiStaff will **not** pay damages assessed personally against an individual.

In addition, CitiStaff will take disciplinary action -- termination is one possible action -- against any employee who engages in sexual harassment.

### **Protection Against Retaliation**

CitiStaff policy and California state law forbid retaliation against any employee who opposes sexual harassment, files a complaint, testifies, assists or participates in any manner in an investigation, proceeding or hearing conducted by the Department of Fair Employment and Housing or the Fair Employment and Housing Commission.

Prohibited retaliation includes but is not limited to:

1. demotion
2. suspension
3. failure to hire or consider for hire
4. failure to give equal consideration in making employment decisions
5. failure to make impartial employment recommendations adversely affecting working conditions or otherwise denying any employment benefit to an individual.

### **Additional Information**

The Department of Fair Employment and Housing (DFEH) is the state agency that resolves complaints of unlawful discrimination, including sexual harassment. After a complaint is filed, the DFEH has one year to investigate the complaint.

The Fair Employment and Housing Commission (FEHC), headquartered in San Francisco, decides cases prosecuted by the DFEH at the state level.

To contact the DFEH, consult the local telephone directory under State Government Offices or ask directory assistance for the number of Department of Fair Employment and Housing headquarters in Orange County, Los Angeles County, or Sacramento.

The Equal Employment Opportunity Commission (EEOC) is the federal agency that resolves sexual harassment claims. To contact the commission, consult directory assistance for Washington, D.C.

If they find a complaint is justified, state and federal agencies have the power to order, among other actions, the wronged party be hired, given back pay, promoted, reinstated or granted damages for emotional distress. The agencies also may issue a "cease and desist" order to prevent further unlawful activity and order the violator to pay fines.

CitiStaff clearly does not tolerate harassment on the basis of any of the categories discussed in this policy and will take appropriate disciplinary action whenever such harassment is demonstrated. Any individuals engaging in such conduct contrary to CitiStaff policy may be personally liable in any legal action brought against them. If there are any questions concerning this policy, an employee should contact the Human Resources Manager.

## **DISCIPLINARY POLICY**

Degrees of discipline are usually progressive and are used to ensure that the employee has the opportunity to correct their performance. The discipline to be applied is determined by CitiStaff's management. However, there are offenses so serious such as fighting, theft, insubordination, threats of violence, the sale or possession of drugs or abuse of alcohol on company property, etc., that termination may be the first and only disciplinary step taken.

For the business office, casual business-style dress is appropriate. Employees should be neatly groomed and clothes should be clean and in good repair. For jobsites, employees are expected to wear work clothes appropriate for the work to be done. Employees should be sensitive to the location and context of their work and should be ready to adjust their dress if the circumstances warrant. Employee at a jobsite should wear clothing that protects their safety, i.e., boots, and wear clothing in such a way that would not present a safety hazard. In addition, all employees are required to wear the appropriate personal protective equipment as required by their job assignment. All personal protective equipment shall be worn correctly and in accordance with the manufacturer's recommendations. If this equipment is damaged or not returned, an employee may be subject to disciplinary action, up to and including termination.

An employee reporting to work in violation of this policy will be sent home, without pay, and not permitted back to work until dressed in accordance with CitiStaff policy. If there are any questions as to what constitutes proper attire at any time, the Human Resources Manager shall be consulted.

### **Professional Conduct**

The courtesy of CitiStaff employees to each other, as well as customers, salespersons, and vendors from other companies is of the utmost importance. Discourteous, rude, or inattentive behavior toward another employee, customer, vendor or representative from other companies will not be tolerated. All employees are to remember that insubordination or unprofessional conduct toward those we serve, supervisors or fellow employees, is cause for disciplinary action, up to and including termination.

It is also a policy of CitiStaff that as a requirement of professional conduct, employees maintain a high level of ethical standards. Lying, deceiving or otherwise withholding information from either management or another employee which could be detrimental to the business is prohibited. Disciplinary action, up to and including termination, may be implemented for employees who do not follow this policy.

### **Good Housekeeping**

Each employee is expected to keep their work area in a reasonably neat and clean fashion. It is requested that employees clear their work areas as much as possible each evening.

### **Trade Secrets/Confidential Information**

The protection of confidential information and trade secrets is essential both for CitiStaff and its employees' future security. To protect such information, employees may not disclose any trade secret or confidential information (whether labeled same or not), including financial information, as well as information (whether in document form or simply spoken as part of normal business discussions), to any individual. Employees who are exposed to confidential, sensitive, or proprietary information about CitiStaff, its customers, or its processes may be required to sign a Trade Secret and Non-Disclosure Agreement as a condition of employment. Regardless of whether the employee is still employed by CitiStaff, they may not disclose trade secrets or confidential CitiStaff information; persons still employed who do so are subject to disciplinary action, up to and possibly including termination.

### **CitiStaff Property, Security, Privacy and Searches**

Desks, storage areas, work areas, lockers, file cabinets, credenzas, computer systems, office telephones, modems, facsimile machines, duplicating machines and CitiStaff vehicles are CitiStaff property and must be maintained according to this policy. All such areas and items must be kept clean and are to be used only for work purposes, except as provided in this policy. CitiStaff reserves the right, at all times, and without prior notice, to open, inspect and search any and all CitiStaff property, as well as the contents, effects, or articles that are on CitiStaff property, for the purpose of determining whether this policy or any other CitiStaff policy has been violated, or whether such inspection and investigation is necessary for purposes of promoting safety in the workplace or compliance with state and federal laws. Such inspections may be conducted during or after business hours and in the presence or absence of the employee.

CitiStaff's computer systems and other technical resources, including any voice mail or e-mail systems, are provided for use in the pursuit of CitiStaff business and are to be reviewed, monitored and used only in that pursuit, except as provided in this policy. As a



**Copyright Issues**

Copyright materials belonging to entities other than CitiStaff may not be transmitted by staff members on the Internet. One copy of copyrighted material may be downloaded for an employee's personal use in research. Users are not permitted to copy, transfer, rename, add or delete information or programs belonging to other users unless given express permission to do so by the owner. Failure to observe copyright or license agreements may result in disciplinary action from CitiStaff or legal action by the copyright owner.

**Security**

All messages created, sent or retrieved over the Internet are the property of CitiStaff, and should be considered public information. CitiStaff reserves the right to access and monitor all messages and files on the computer system as deemed necessary and appropriate. Internet messages are public communication and are not private. All communications including text and images can be disclosed to law enforcement or other third parties without prior consent of the sender or receiver.

**Harassment**

All electronic communications shall comply with the Equal Employment Opportunity and Discrimination Policy, Policy Against Harassment, and the Solicitation/Distribution Policy. In no circumstance are the electronic communication systems to be used to create or forward any offensive or disruptive messages, or any message that might constitute (or indicate the condoning or encouragement of) harassment, lewd, illicit or illegal activities. Among those which are considered offensive, are any messages which contain sexual implications, racial slurs, gender specific comments, or any other comment that offensively addresses someone's age, sexual orientation, religious or political beliefs, national origin or disability. The electronic communication systems may not be used to solicit for commercial ventures, religious or political causes, outside organizations, or other non-job-related solicitations. Employees learning of any misuse of the voicemail/e-mail system or violations of this policy shall notify the Human Resources Manager.

**Violations**

Violations of any guidelines listed above may result in disciplinary action, up to and including termination. If necessary, CitiStaff will advise appropriate legal officials of any illegal violations.

**GRIEVANCE PROCEDURE**

CitiStaff wishes to provide each employee the opportunity to address his or her concerns. Accordingly, it has established the following grievance procedure that is available to all employees. Please note CitiStaff will make efforts to resolve an employee's grievance promptly. Employees shall note CitiStaff Open Door Policy and that CitiStaff encourages responses from its employees and wishes to assist in alleviating misunderstanding or uncomfortable situations in the work environment. The following are a guideline of the steps that should be taken by an employee and the order in which they should be taken:

Step 1 - Within five working days of an incident or problem giving rise to an employee's grievance, the employee is to discuss the problem with their immediate supervisor. In most instances, a friendly talk with the supervisor can solve a problem to an employee's satisfaction. The grievance shall be treated in a business-like manner. The supervisor shall consider the concerns, investigate when appropriate, and provide the employee with an answer within five working days, unless additional time is required under the circumstances.

Step 2 - If the problem is not resolved at Step 1 or if an employee is uncomfortable discussing an issue with their supervisor, an employee may arrange an appointment to meet with the appropriate manager in order to reach a solution. A request for such a meeting shall be made within three working days after the employee receives a response from the supervisor or within five working days of the incident or problem if the employee is uncomfortable speaking to the supervisor. A meeting will be scheduled promptly in an attempt to resolve the problem. The grievance will receive attention from the manager, who will provide the employee with a written response.

Step 3 - If the problem is not resolved at Step 2 or if an employee is uncomfortable discussing an issue with the manager, an employee may arrange an appointment to meet with the Human Resources Manager in order to reach a solution. A request for such a meeting shall be made within three working days after the employee receives a response from the manager or within five



working days of the incident or problem if the employee is uncomfortable speaking to the manager. A meeting will be scheduled promptly in an attempt to resolve the problem. The grievance will receive attention from the Human Resources Manager, who will provide the employee with a written response promptly.

Step 4 - If the problem is not resolved at Step 3 or if an employee is uncomfortable discussing an issue with the Human Resources Manager, an employee may arrange an appointment to meet with the President, Vice President, or Operations Manager, in order to reach a solution. A request for such a meeting shall be made within three working days after the employee receives a response from the Human Resources Manager or within five working days of the incident or problem if the employee is uncomfortable speaking to the Human Resources Manager. A meeting will be scheduled promptly in an attempt to resolve the problem. The grievance will receive attention from the President, Vice President, or Operations Manager, who will provide the employee with a written response as promptly as possible.

Any decision rendered by the President, Vice President, or Operations Manager, is regarded as final and binding on all parties.

### **SAFETY GUIDELINES**

Every employee is asked to cooperate in helping to promote safety and to prevent accidents to themselves, as well as to other employees, customers, and visitors. It is the employee's responsibility to observe all safety rules established for the employee's protection and guidance, abide by all laws and regulations, use safety equipment and devices provided or required, and to always work in a manner which safeguards the employee and fellow workers. In the event of an injury on the job, it is the employee's responsibility to promptly obtain first aid and to report the injury to the appropriate supervisor.

In order to work safely, an employee needs to be rested, alert and constantly aware of what is going on around them, being particularly watchful for recognizable hazards. Employees must know the correct, safe procedures for their job and, if the employee has any doubt, they are to stop and ask their supervisor.

By obeying safe work rules (some of which are listed below), as well as any other special instructions received (such as CitiStaff Written Injury and Illness Prevention Program), and by using common sense and good judgment, an employee will be doing their part in sharing with CitiStaff an important job responsibility -- THE PREVENTION OF ACCIDENTS. A lack of safety know-how or an indifference to safety could result in an injury to an employee, or others, because accidents don't just happen, they are caused!

All employees are to note and remember the following safety rules:

1. Report to work in good physical and alert mental condition.
2. Understand work assignments and make certain employees are fully qualified for the job.
3. Firearms are not permitted on the job.

4. Look for hazards, unsafe conditions or practices and report them immediately to a supervisor, unless an employee can correct the situation safely, and then report it.
5. Use the safety equipment and devices provided for employee's protection.
6. Only operate and/or repair machinery, equipment or electrical circuits if qualified to do so.
7. Each employee is to do their part to help keep work areas clean and free of debris and other tripping hazards.
8. If injured in any way, an employee is to report it to their supervisor immediately and obtain first aid or authorized medical treatment. If an employee needs to visit a doctor for any reason, they are to notify their supervisor at once.

#### **Code of Safe Work Practices**

The following rules are not all inclusive and additional rules and/or regulations may be added or removed. All CitiStaff employees shall comply with these rules and make every possible effort to continually work in a safe manner. Failure to comply with the following rules, any governmental regulations, or the direction of the supervisor may result in disciplinary action, up to and possibly including termination.

Specific training will be administered to employees to ensure their familiarity with specific job safety requirements. No employee will be asked, nor shall knowingly, perform work he/she has not been properly trained, or is not qualified to perform.

#### **General**

1. Report any unsafe or unhealthy condition(s) or practice(s) to the immediate supervisor or the Safety Department;
2. Employees may not knowingly work while under the influence of drugs or any other intoxicating substances;
3. The use, possession, sale or being under the influence of any intoxicating substance or illegal drug will not be tolerated on the job site;
4. Horseplay, scuffling, fighting or any such acts that may distract one's self or any other employee from performing their duties safely are prohibited;
5. No tank tops or shirts without sleeves shall be worn on the job site(s);
6. All work shall be planned and executed in a manner that ensures the safety of all personnel and equipment;
7. Smoking is only allowed in designated areas;
8. When an employee is required to perform manual lifting, he/she shall do so utilizing their legs rather than their backs;
9. One person shall not attempt the lifting of extremely heavy objects or awkward loads;
10. Project Managers or the Safety Department shall instruct all employees on proper lifting techniques;
11. The use of mechanical assist shall be substituted for manual lifting when the load exceeds the ability or size of the object precludes safe handling;
12. Employees required to work with chemicals, hazardous waste or materials are required to handle the material in accordance with the information provided on the appropriate MSDS;
13. Employees working with chemicals or hazardous waste or materials are required to wash their hands prior to eating;
14. Good housekeeping practices shall be utilized at all times, and employee should keep their work area clean;

15. No one will willingly be allowed or required to work while their abilities are impaired by fatigue, illness, prescription medication or any other causes that would place them or any other employee at risk of injury;

#### **Injuries/Incidents**

1. All work related injuries, illnesses, motor vehicle incidents or incidents of property damage must be reported to the supervisor IMMEDIATELY! Failure to comply may result in disciplinary action;
2. A Report of Injury form shall be completed in its entirety and turned in immediately;
3. In the event of a fatality or the injured are hospitalized more than 24 hours, for other than observation, the accident must be called in to the local Cal/OSHA office.

#### **Personal Protective Equipment**

1. All employees are required to wear the appropriate personal protective equipment for his/her job assignment. All personal protective equipment shall be worn correctly and in accordance with the manufacturer's recommendations;
2. Employees must wear approved hard hats and eye protection if required at the jobsite;
3. Appropriate goggles shall be worn when the job task demands they be used as added eye protection or if using equipment for which they may be required;
4. All employees are required to wear the appropriate footwear for their assigned duties.
5. Gloves appropriate for the work being performed shall be worn;
6. In areas where the sound levels will exceed 85 dba appropriate training and hearing protection will be provided to all affected personnel;
7. No employee shall be allowed to repair PPE, if it is broken or defective notify the supervisor and get it replaced.

#### **Machinery and Equipment**

1. No employee will be allowed to operate a piece of machinery or motorized equipment without prior training and authorization;
2. Riding in or on machinery not designed to carry passengers is not permitted;
3. Machinery or devices with belts or chain drives shall be properly guarded and shall not be operated unless guards or other protective devices are in place;
4. Smoking is not permitted while re-fueling equipment;
5. No repairs or lubrication shall be attempted on any machines, engines, etc., until provisions have been made to prevent revolving or reciprocal parts from turning over accidentally. The power source should be locked out or the prime mover made immobile;
6. Long hair, loose, frayed or dangling clothing or rings will not be allowed to be worn around moving parts, machinery or other sources of entanglement.